

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

JABO JOHNIGAN,

PLAINTIFF,

vs.

CITY OF VANCOUVER; CHIEF JAMES
MCELVAIN, IN HIS OFFICIAL
CAPACITY AS CHIEF OF THE
VANCOUVER POLICE DEPARTMENT,
CHRISTOPHER BOHATCH,
INDIVIDUALLY AND AS AN EMPLOYEE
OF VANCOUVER POLICE
DEPARTMENT, SCOTLAND HAMMOND,
INDIVIDUALLY AND AS AN EMPLOYEE
OF VANCOUVER POLICE
DEPARTMENT,
DEFENDANTS.

No. 3:20-cv-5601

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY**

[JURY DEMAND]

I. INTRODUCTION

1.1 This is a civil action brought by plaintiff, Mr. Jabo Johnigan, an adult black male, against Vancouver Police Department officers for barging into his home at night without a warrant or any other lawful authority, and for then searching his home, seizing him, and interrogating him.

1.2 This action seeks damages against Defendants for committing acts, under color of law, which deprived Plaintiff of rights secured under the Constitution and laws of the United States

1 and Constitution and laws of the State of Washington; for conspiring for the purpose of impeding
 2 and hindering the due course of justice, with intent to deny Plaintiff equal protection of laws; and
 3 for refusing or neglecting to prevent such deprivations and denials to Plaintiff.

4 1.3 Defendants, while acting in their capacities as law enforcement officers for the
 5 Vancouver Police Department, in the City of Vancouver, State of Washington, deprived plaintiff
 6 of his rights, property, and liberty without due process of law, made an unreasonable search and
 7 seizure of the person and property of plaintiff, deprived plaintiff of his property without due
 8 process of law, unlawfully interrogated him, and thereby deprived plaintiff of his rights, privileges
 9 and immunities as guaranteed by the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to
 10 the Constitution of the United States, 42 U.S.C. and §§ 1983, 1985, 1986, and 1988, and
 11 Washington State Constitution, statutory and common law.

12 II. PARTIES

13 2.1 Plaintiff JABO JOHNIGAN was at all times relevant a citizen of the United States
 14 residing in Vancouver, Washington.

15 2.2 Defendant CITY OF VANCOUVER, a municipal corporation, is a lawfully
 16 constituted municipal corporation and body politic of the State of Washington, and at all times
 17 material to this action operated the Vancouver Police Department.

18 2.3 Defendant, CHIEF JAMES MCELVAIN is and at all times relevant was, a resident
 19 of Clark County, Washington, and the duly appointed Chief of the VANCOUVER POLICE
 20 DEPARTMENT, acting at all times in his official capacity as Chief of Police for the Vancouver
 21 Police Department. As such Chief McElvain was the commanding officer of the defendants
 22 Christopher Bohatch and Scotland Hammond, and was responsible for their training, supervision,
 23 and conduct. Chief McElvain was also responsible by law for enforcing the laws of the State of

1 Washington, and regulations of the Vancouver Police Department and for ensuring that Vancouver
 2 Police Department personnel obey the laws of the State of Washington and of the United States.
 3 At all relevant times, Chief McElvain was acting in such capacity as the agent, servant, and
 4 employee of the defendant City Vancouver. Chief McElvain is being sued both in his individual
 5 capacity, personal capacity, and official capacity.

6 2.4 Defendant CHRISTOPHER BOHATCH, is, and at all times relevant was, a
 7 resident of the Clark County, Washington, and employee of the Vancouver Police Department,
 8 acting as a lawfully commissioned law enforcement officer. CHRISTOPHER BOHATCH is being
 9 sued both in his individual capacity, personal capacity, and official capacity.

10 2.5 Defendant SCOTLAND HAMMOND, is, and at all times relevant was, a resident
 11 of the Clark County, Washington and employee of the Vancouver Police Department, acting as a
 12 lawfully commissioned law enforcement officer. SCOTLAND HAMMOND is being sued both in
 13 his individual capacity, personal capacity, and official capacity.

14 **III. JURISDICTION AND VENUE**

15 3.1 This action is brought pursuant to 42 U.S.C. §§ 1983, 1985(2),(3) and § 1988, and
 16 the First, Fourth, Fifth, Eighth and Fourteenth Amendments.

17 3.2 Jurisdiction is founded on 28 U.S.C. §§ 1331, and 1343 and the aforementioned
 18 statutory and constitutional provisions.

19 3.3 All parties are resident in or doing business in Vancouver, Washington and the
 20 Western District and are citizens of the United States of America of the State of Washington.

21 3.4 Venue is proper in this District pursuant to 28 U.S.C. § 1391 as a substantial part
 22 of the events and omissions giving rise to the claims asserted herein occurred in Vancouver,
 23 Washington, which is in this district and division.

3.5 The complaint is timely filed within the applicable statute of limitations.

3.6 The appropriate statute of limitations is Washington's three-year statute for personal injury claims. RCW 4.16.080.

3.7 The United States Supreme Court and the Ninth Circuit have held that 42 U.S.C. § 1983, which does not contain a statute of limitations, adopts the relevant statute of limitations for personal injury actions. *Wilson v. Garcia*, 471 U.S. 261 (1985); *Stanley v. Trustees of California State University*, 433 F.3d 1129 (9th Cir. 2006).

IV. FACTUAL ALLEGATIONS

4.1 Mr. Jabo Johnigan has never been convicted of a crime.

4.2 Mr. Jabo Johnigan is black male.

4.3 Mr. Johnigan has worked for years as a software engineer.

4.4 Vancouver, Washington has a population that is over 85% white or Caucasian.

4.5 Vancouver, Washington has a population that is under 3% black.

4.6 Law enforcement action in the State of Washington has historically impacted African Americans, or blacks, disproportionately to their percentage of the general population in Washington.

4.7 Law enforcement action in the City of Vancouver has historically impacted African Americans, or blacks, disproportionately to their percentage of the general population in the City of Vancouver.

4.8 On information and belief, in 2019, African Americans, or blacks, were arrested by the Vancouver Police Department disproportionately to their percentage of the general population in the City of Vancouver.

4.9 Officer Hammond, Officer Bohatch, and Chief McElvain are white or Caucasian.

1 4.10 At all times relevant to this case Chief McElvain, Officer Hammond, and Officer
2 Bohatch were officers for the Vancouver Police Department and acting under color of state law.

3 4.11 On March 13, 2019, at 22:29, Vancouver police officers Christopher Bohatch and
4 Scotland Hammond were dispatched to a call at the residence of Mr. Jabo Johnigan in Vancouver,
5 Washington.

6 4.12 The caller was Isreal Young.

7 4.13 Ms. Young told dispatch she was the only one drinking any alcohol that night.

8 4.14 Prior to arriving at Mr. Johingan's residence, they were advised by dispatch that
9 there was a verbal dispute.

10 4.15 Prior to arriving at Mr. Johingan's residence, they were advised by dispatch that no
11 drugs were involved.

12 4.16 Prior to arriving at Mr. Johingan's residence, they were advised by dispatch that
13 there were no weapons involved.

14 4.17 Prior to arriving at Mr. Johingan's residence, they had not been advised by dispatch
15 that any violent crime was alleged.

16 4.18 Officer Hammond wrote in his post-incident report that prior to his arrival it
17 sounded like the incident was verbal.

18 4.19 Prior to his arrival at Mr. Johnigans' residence, Officer Hammond believed that the
19 incident was verbal and not physical.

20 4.20 Once the officers arrived at Mr. Johnigan's home they made contact at the door
21 with a female.

22 4.21 That female was Isreal Young.

23 4.22 The officers believed that Ms. Young had been drinking alcohol.

1 4.23 Officer Hammond asked Ms. Young if the officers could come inside and Ms.
2 young told them that the home they were at was not her place of residence so she could not give
3 permission to enter.

4 4.24 Officer Hammond wrote in his post-incident report that once the officers arrived at
5 Mr. Johnigan's home they made contact at the door with a female and asked if they could come
6 inside.

7 4.25 According to Officer Hammond's post-incident report, Ms. young ***stated it wasn't***
8 ***her place so she couldn't give permission to enter.***

9 4.26 Ms. Young also told the officers in clear terms that she was not on the lease.

10 4.27 Ms. Young was not on the lease.

11 4.28 Ms. Young did not have a key to the residence.

12 4.29 Ms. Young told the officers that she did not have a key to the residence and could
13 be locked out of Mr. Johnigan's residence if she left.

14 4.30 Officer Hammond wrote in his post-incident report that Ms. Young told her that
15 she was not on the lease.

16 4.31 Ms. Young told the officers that she was not married to Mr. Johnigan.

17 4.32 Ms. Young told the officers that she and Mr. Johnigan are not even together in a
18 relationship anymore.

19 4.33 Ms. Young also made clear to the officers that she was not alleging any assault by
20 Mr. Johnigan.

21 4.34 Mr. Johnigan told the officers that he had asked Ms. Young to leave his residence.

22 4.35 Mr. Johnigan told the officers that Ms. Young did not reside at his residence.

1 4.36 After Mr. Johnigan told the officers that Ms. Young did not reside at his residence,
2 one of the officer said “you need to shut your mouth right now.”

3 4.37 The officer then told Mr. Johnigan that if Mr. Johnigan was not going to come
4 outside of the residence then he needed to stay in his room.

5 4.38 Mr. Johnigan stated to the officers in clear terms that he did not want to speak with
6 them.

7 4.39 Officer Hammond wrote in his post-incident report that he asked Mr. Johnigan if
8 he would be willing to come and talk to the officers, and that Mr. Johnigan responded by saying
9 that he did not want to talk to the officers.

10 4.40 On March 13, 2019, at 22:49:04 hours, one of the two officers notified dispatch that
11 they were “code 4.”

12 4.41 “Code 4” means that the officer considers the call a non-emergency.

13 4.42 This Code 4 call was made before officers entered Mr. Johnigan’s residence.

14 4.43 However, Officer Hammond and Officer Bohatch entered Mr. Johnigan’s residence
15 and began to search his residence.

16 4.44 Mr. Johnigan never consented to the officers entering his residence.

17 4.45 No permission was given to the officers to enter the residence.

18 4.46 The officers did not have a warrant to enter the home.

19 4.47 Both officers were in full patrol uniform.

20 4.48 Both officers wore military style battle vests.

21 4.49 Both officers carried a visible taser and handgun.

22 4.50 Both officers wore body armor.

1 4.51 After entering Mr. Johnigan's residence without a warrant Officer Bohatch seized
2 Mr. Johnigan in his bedroom.

3 4.52 Officer Bohatch stood in the doorway of Mr. Johnigan's bedroom, where Mr.
4 Johnigan was sitting on his bed and his son was sleeping, leaving Mr. Johnigan no way to leave.

5 4.53 Officer Bohatch then stood in the door way to the bedroom and interrogated Mr.
6 Johnigan.

7 4.54 Mr. Johnigan was compelled to stay in his room until the officer finished
8 interrogating him.

9 4.55 Mr. Johnigan was never at any point allowed to leave his room until the moment
10 the officer arrested Mr. Johnigan, at which point the officer handcuffed him, and took him outside
11 and placed him in the patrol car.

12 4.56 Officer Bohatch wrote in his post-incident report that Mr. Johnigan had previously
13 stated that he did not want to talk with Officer Bohatch, yet Officer Bohatch continued his
14 interrogation.

15 4.57 Officer Bohatch did not provide *Miranda* warnings to Mr. Johnigan at any point
16 prior to, or during, the interrogation.

17 4.58 Officer Hammond placed Mr. Johnigan in handcuffs and advised him that he was
18 under arrest for the alleged misdemeanor of damaging the television in Mr. Johnigan's residence.

19 4.59 On March 13, 2019, at 23:08:24 hours, one of the officers notified dispatch that Mr.
20 Johnigan had been taken into custody.

21 4.60 The officers have claimed that Mr. Johnigan broke the television that was inside
22 Mr. Johnigan's own residence.

1 4.61 The alleged damage to the television was not visible from the outside of Mr.
2 Johnnigan's residence.

3 4.62 Officer Hammond placed Mr. Johnnigan in the back seat of his patrol car in front of
4 his neighbors.

5 4.63 Officer Bohatch attempted to remain in the home and take photographs of the inside
6 of Mr. Johnnigan's home and threatened Ms. Israel Young with criminal charges when she objected
7 to him being in the home and taking photographs.

8 4.64 Officer Scotland Hammond initiated criminal prosecution against Mr. Johnnigan by
9 filing a criminal charge against Mr. Johnnigan by way of a citation under CrRLJ on or about March
10 13, 2019.

11 4.65 The charge number was 9Z0242613.

12 4.66 There was no warrant authorizing the entry into Mr. Johnnigan's residence.

13 4.67 There was no exception to the warrant requirement to provide a legal basis for the
14 officers to enter and search Mr. Johnnigan's residence.

15 4.68 The unlawful entry into, and search of, Mr. Johnnigan's home was motivated by
16 conscious or unconscious racial bias.

17 4.69 The unlawful seizure of Mr. Johnnigan inside his home was motivated by conscious
18 or unconscious racial bias.

19 4.70 The arrest of Mr. Johnnigan's was motivated by conscious or unconscious racial
20 bias.

21 4.71 Officer Scotland Hammond issued a report of this incident on March 14, 2019.

22 4.72 His report evidenced that he had no warrant to enter Mr. Johnnigan's residence.

23 4.73 Officer Hammond's report was approved by his supervisor Officer Erik Jennings.

4.74 Officer Christopher Bohatch issued a report on March 15, 2019.

4.75 His report evidenced that he had no warrant to enter Mr. Johnigan's residence.

4.76 Officer Bohatch's report was approved by his supervisor Officer Roger Evans.

4.77 Neither of the supervising officers took corrective action for the warrantless entry into Mr. Johnigan's home.

4.78 Mr. Johnigan was booked into the county jail where he stayed until he was forced to appear at a hearing on March 14, 2019, before Commissioner Abigail Bartlett.

4.79 Mr. Johnson was forced to wear handcuffs and ankle shackles at the public court hearing.

4.80 The hearing was recorded on video which is now available to the public via a simple request to the court for the video.

4.81 Mr. Johnigan was compelled to attend several court hearings based on the charges filed by the officer.

4.82 Defense Attorney Jeff Holmes filed a notice of appearance on behalf of Johnigan on June, 13, 2019.

Officer Bohatch Made Admission Regarding the Illegal Search and Seizure

4.83 After criminal charges were filed against Mr. Johnigan, Officer Bohatch was interviewed by defense counsel for Mr. Johnigan.

4.84 The interview was conducted at the Domestic Violence Prosecution Center.

4.85 The Domestic Violence Prosecution Center is a joint prosecution team made up of prosecutors from the Clark County Prosecuting Attorney's Office and Assistant City Attorney from the Vancouver City Attorney's Office.

4.86 The interview of Officer Bohatch was attended by Deputy Prosecutor Lauren Boyd.

1 4.87 Officer Bohatch admitted that Officer Hammond arrived first and waited in his car
2 for Officer Bohatch to arrive.

3 4.88 Officer Bohatch admitted that the two approached Mr. Johnigan's apartment
4 together.

5 4.89 Officer Bohatch admitted that there was no allegation of drugs.

6 4.90 Officer Bohatch admitted that there was no allegation of any weapons being
7 involved.

8 4.91 Officer Bohatch admitted that there was no allegation of physical violence.

9 4.92 Officer Bohatch admitted that there was not "any sort of emergency."

10 4.93 Officer Bohatch admitted that there was no allegation of "any injury to any person."

11 4.94 Officer Bohatch admitted that when he arrived at the door to the home of Mr.
12 Johnigan he heard only general arguing between Mr. Johnigan and Ms. Young.

13 4.95 Officer Bohatch admitted that once at the front door he contacted Ms. Young, and
14 that Mr. Johnigan stayed in his bedroom.

15 4.96 During the interview, Officer Bohatch stated "once the door was open, because she
16 had the door partially cracked, um, and was standing there talking to us, she told us that she didn't
17 have authority to let us in, and then Jabo was in the room yelling to us from around the corner."

18 4.97 When asked if Officer Bohatch observed any injuries on Ms. Young he stated "No.
19 You could tell she was upset, but, uh, no injuries."

20 4.98 Officer Bohatch also admitted that "there was no allegations of any physical harm
21 to her or anyone else."

22 4.99 When Officer Bohatch was asked "when you, you contacted her she said that, uh,
23 she didn't live there, she couldn't give you permission to enter", his answer was "yes."

1 4.100 Officer Bohatch also admitted that Ms. Young told them that she was not on the
2 lease.

3 4.101 Officer Bohatch also admitted that he had no reason to doubt that Ms. Young was
4 telling the truth when she said she was not on the lease.

5 4.102 Officer Bohatch also admitted that Ms. Young did not give the officers permission
6 to enter.

7 4.103 Officer Bohatch also admitted that Ms. Young told them she did not have authority
8 to give them permission to enter.

9 4.104 Officer Bohatch also admitted that Mr. Johnigan “didn’t want [the officers] to walk
10 in” to the home.

11 4.105 Officer Bohatch admitted that Officer Hammond entered Johnigan’s home and he,
12 Officer Bohatch, followed.

13 4.106 When Officer Bohatch was asked “[b]ut there’s nothing that indicates he ever
14 actually consented for you to enter the residence, correct”, Officer Bohatch answered “Not him
15 specifically, no.”

16 4.107 Officer Bohatch also admitted that prior to entering Mr. Johnigan’s home the
17 officers had no reason to believe that Mr. Johnigan was injured.

18 4.108 Officer Bohatch also admitted that prior to entering Mr. Johnigan’s home the
19 officers had no reason to believe that Ms. Young was injured.

20 4.109 When defense counsel asked “Would there have been anything on this date that
21 would, would rise to emergency”, Officer Bohatch admitted “No, there was nothing emergent.”

22 4.110 Officer Bohatch admitted that the officers had no basis to be in the home if they did
23 not have consent to enter.

1 4.111 Officer Bohatch admitted that prior to entering Mr. Johnigan's home, Ms. Young
2 had already told the officers that she didn't have the authority to let them in and that she wasn't on
3 the lease.

4 4.112 During the interview, Clark County Deputy Prosecutor Lauren Boyd asked Officer
5 Bohatch a follow up question to which he responded "when we initially contacted her she said 'I
6 can't let you in. Jabo has to let you in.'"

7 4.113 Officer Bohatch also admitted that once the officers were inside Mr. Johnigan's
8 apartment Ms. Young told them to leave.

9 4.114 Officer Bohatch admitted that the officers did not leave the home even after Ms.
10 Young told them to leave.

11 4.115 Officer Bohatch admitted that he told Ms. Young that he needed to take
12 photographs inside Mr. Johnigan's home and the she was "interfering."

13 4.116 Officer Bohatch admitted that in his report he wrote that Ms. Young did not live in
14 Mr. Johnigan's home.

15 4.117 Officer Bohatch admitted that after entering the home the officers interrogated Mr.
16 Johnigan inside his home.

17 4.118 Officer Bohatch admitted that he was under no legal duty to make an arrest of Mr.
18 Johnigan the night he arrested Mr. Johnigan.

19 ***Dismissal***

20 4.119 On information and belief, Deputy Prosecutor Lauren Boyd communicated the
21 substance of Officer Bohatch's interview admissions to Vancouver Assistant City Attorney Kenny
22 Wallace.

1 4.120 Kenny Wallace is an Assistant City Attorney for the Vancouver City Attorney's
2 Office.

3 4.121 Kenny Wallace was primarily responsible for the handling of the criminal case
4 against Mr. Johnigan.

5 4.122 At around the time that Assistant City Attorney Wallace learned of the admissions
6 by Officer Bohatch he reviewed the reports of all officer's involved in arrest of Mr. Johnigan.

7 4.123 On October 23, 2019, Assistant City Attorney Kenny Wallace filed a motion to
8 dismiss the criminal charges filed by Officer Bohatch against Mr. Johnigan.

9 4.124 Attached as Exhibit A to this complaint is a true and correct copy of the motion for
10 dismissal signed by Assistant City Attorney Wallace.

11 4.125 The criminal charges were then dismissed by the Clark County District Court on
12 that same day.

13 4.126 Officer Christopher Bohatch's action forced Mr. Johnigan to hire a defense lawyer
14 and pay legal fees to defend against the criminal charges.

15 4.127 While the case was pending, Mr. Johnigan experienced severe difficulty sleeping,
16 eating, and suffered severe anxiety and depression.

17 4.128 The dismissal was the final outcome of the criminal case brought against Mr.
18 Johnigan.

19 4.129 As a result of Defendants' conduct, Mr. Johnigan became extremely depressed.

20 4.130 Prior to the actions of these officer, Mr. Johnigan had faith in law enforcement and
21 felt he could safely reside anywhere in the United States of America.

22 4.131 That total faith is no more as a result of the unlawful entry into his home.

23 ***The Vancouver Police Department Ignored and Ratified the Misconduct***

1 4.132 Notice of the dismissal of the criminal charges was provided to the Vancouver
2 Police Department on behalf of Mr. Johnigan, as part of a formal complaint to the Police
3 Department.

4 4.133 This complaint was made using the online complaint process provided by the
5 Vancouver Police Department.

6 4.134 The complaint on behalf of Mr. Johnigan specifically complained about the illegal
7 search of his home and interrogation of Mr. Johnigan.

8 4.135 Vancouver Police Department Chief James McElvain is and at all times relevant
9 was the duly appointed Chief of the Vancouver Police Department, acting at all times in his official
10 capacity as Chief of Police for the Vancouver Police Department.

11 4.136 As such James McElvain was the commanding officer of the defendants
12 Christopher Bohatch, Scotland Hammond, and was responsible for their training, supervision, and
13 conduct.

14 4.137 Chief McElvain was also responsible by law for enforcing the regulations of the
15 Vancouver Police Department and for ensuring that Vancouver Police Department personnel obey
16 the laws of the State of Washington and of the United States.

17 4.138 At all relevant times, Chief McElvain was acting in such capacity as the agent,
18 servant, and employee of the defendant City of Vancouver and had policy making authority for
19 the Vancouver Police Department.

20 4.139 On January 2, 2020, Mr. Johnigan emailed Vancouver Police Chief McElvain.

21 4.140 In Mr. Johnigan's email, he put Chief McElvain on personal notice of the
22 misconduct by his officers.

23 4.141 Mr. Johnigan's email to Chief McElvain stated as follows:

Dear Chief:

My name Jabo Johnigan and I write to you do let you know that my rights were violated by two of your officers. On March 13, 2019, two of your officers (Christopher Bohatch and Scotland Hammond) came into my home at night without a warrant. They came into my bed room and interrogated me. They did not have a warrant to come into my home and they did not have permission. Their actions were illegal and very hurtful.

As both officers are white, and I am black, I can't help but suspect that they felt they could get away with this because of my race. The should be held accountable for their actions.

As the Chief of police I write to you directly as you are the one who can fix this.

Sincerely,

Jabo Johnigan

4.142 Attached to this complaint as Exhibit B is a true and correct copy of the email to Chief McElvain.

4.143 In Washington, it is a crime for a police officer to enter someone's home without lawful authority.

4.144 At the time of Mr. Johnigan's email, Chief McElvain was aware that it is a crime in the State of Washington for a police officer to enter someone's home without lawful authority.

4.145 On information and belief, Chief McElvain did not take any steps to have a criminal investigation conducted regarding the warrantless entry of Mr. Johnigan's home by officers Bohatch and Hamlin.

4.146 On information and belief, Chief McElvain was aware that an assistant Vancouver Assistant City Attorney had dismissed the charges against Mr. Johnigan because of the warrantless entry into Mr. Johnigan's home.

1 4.147 On information and belief, Chief McElvain took no action to discipline or retrain
2 Officer Bohatch or Officer Hammond.

3 4.148 In response to the above complaint made by Mr. Johnigan, Vancouver Police
4 Department Officer David Krebs opened an internal investigation file under the number IAC 2020-
5 0001.

6 4.149 On information and belief, the Vancouver Police Department concluded IAC 2020-
7 0001 by formally ratifying the warrantless and unreasonable entry into Mr. Johnigan's residence.

8 4.150 On information and belief, Chief McElvain took no action to discipline to retrain
9 Officer Hammond for the warrantless entry into Mr. Johnigan's residence.

10 4.151 On information and belief, Chief McElvain took no action to discipline to retrain
11 Officer Bohatch for the warrantless entry into Mr. Johnigan's residence.

12 4.152 On information and belief, Vancouver Police Department took no action to
13 discipline or retrain officer Bohatch for the warrantless entry into Mr. Johnigan's residence.

14 4.153 On information and belief, Vancouver Police Department took no action to
15 discipline or retrain officer Hammond for the warrantless entry into Mr. Johnigan's residence.

16 ***Vancouver Police Refuse to Use Body Cameras and Dash Cameras***

17 4.154 In November of 2014, the Washington State Attorney General issued a formal
18 opinion that Washington State law does not required police departments to obtain the consent of a
19 law enforcement officers to use body cameras attached to police uniforms. AGO 2014 No. 8.

20 4.155 Chief McElvain has authority to issue body cameras to Vancouver Police
21 Department Officers.

22 4.156 Chief McElvain has not implemented the use of body cameras at the Vancouver
23 Police Department.

4.157 Chief McElvain has not issued body cameras to any officers at the Vancouver Police Department.

4.158 Chief McElvain has not mandated the use of body cameras by officers at the Vancouver Police Department.

4.159 No officers at the Vancouver Police Department use a body camera.

4.160 Chief McElvain has not implemented the use patrol vehicle dash cameras at the Vancouver Police Department.

4.161 Chief McElvain has not issued patrol vehicle dash cameras to the Vancouver Police Department officer.

4.162 Chief McElvain has not mandated the use of patrol vehicle dash cameras by officers at the Vancouver Police Department.

4.163 No patrol vehicles at the Vancouver Police Department are equipped with dash cameras.

Notice Claims

4.164 On or about April 6, 2020, a notice required under RCW 4.96 et. seq. was served on the CITY OF VANCOUVER, regarding the federal and state law claims pleaded in this complaint.

**V. FIRST CAUSE OF ACTION
FOURTH AMENDMENT VIOLATION
UNLAWFUL SEARCH
(42 U.S.C. § 1983 *et seq.*)
(CHRISTOPHER BOHATCH) (SCOTLAND HAMMOND)**

5.1 Plaintiff hereby restates and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

5.2 Defendants Christopher Bohatch and Scotland Hammond recklessly, knowingly, intentionally, willfully and wantonly searched Mr. Johnigan's residence by entering his home and searching it without a warrant or an exception to the warrant requirement.

5.3 The search of Mr. Johnigan's home by Defendants Christopher Bohatch and Scotland Hammond was unreasonable.

5.4 Defendants Christopher Bohatch and Scotland Hammond acted with knowledge that they had no legal basis to enter and search his home.

5.5 A warrant never existed for the search of Mr. Johnigan's residence.

5.6 No authority in law existed to search Mr. Johnigan's home.

5.7 As a result of the actions of officer Bohatch and Hammond, Plaintiff was deprived of his control and use of his property, both the residence and its contents, without due process of law in violation of his rights under the Fourth and Fourteenth Amendments to the United States Constitution.

5.8 As a proximate result of the violation of the Plaintiff's constitutional rights, by defendants Christopher Bohatch and Scotland Hammond, Mr. Johnigan suffered and will continue to suffer damages in the amount to be proven at trial.

5.9 The conduct of defendants Christopher Bohatch and Scotland Hammond also subjects them to punitive damages in an amount to be proven at trial.

VI. SECOND CAUSE OF ACTION SEIZURE

(42 U.S.C. § 1983 *et seq.*)

(CHRISTOPHER BOHATCH) (SCOTLAND HAMMOND)

6.1 Plaintiff hereby restates and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

1 6.2 Defendants Christopher Bohatch and Scotland Hammond recklessly, knowingly,
2 intentionally, willfully and wantonly seized Mr. Johnigan and his residence by entering his
3 residence and seizing him in his residence without a warrant or an exception to the warrant
4 requirement.

5 6.3 The seizure of Mr. Johnigan by Defendants Christopher Bohatch and Scotland
6 Hammond was unreasonable.

7 6.4 Defendants Christopher Bohatch and Scotland Hammond restrained Mr.
8 Johnigan's liberty through coercion, physical force or a show of authority.

9 6.5 Under all of the circumstances, a reasonable person in Mr. Johnigan's position
10 would not have felt free to ignore the presence of law enforcement officers and to go about his
11 business.

12 6.6 At no point did Defendants Christopher Bohatch and Scotland Hammond advise
13 Mr. Johnigan that he was free to leave.

14 6.7 From the time that Defendants Christopher Bohatch and Scotland Hammond
15 arrived at Mr. Johnigan's home he was not free to leave.

16 6.8 As a result of the actions of officer Bohatch and Hammond, Plaintiff was deprived
17 of his control and use of his person without due process of law in violation of his rights under the
18 Fourth and Fourteenth Amendments to the United States Constitution.

19 6.9 As a proximate result of the violation of the Plaintiff's constitutional rights, by
20 defendants Christopher Bohatch and Scotland Hammond, Mr. Johnigan suffered and will continue
21 to suffer damages in the amount to be proven at trial.

22 6.10 The conduct of defendants Christopher Bohatch and Scotland Hammond also
23 subjects them to punitive damages in an amount to be proven at trial.

VII. THIRD CAUSE OF ACTION
SEARCH AND SEIZURE BASED ON RACE
(42 U.S.C. § 1983 *et seq.*)

(CHRISTOPHER BOHATCH) (SCOTLAND HAMMOND)

7.1 Plaintiff hereby restates and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

7.2 Defendants Christopher Bohatch's and Scotland Hammond's recklessly, knowingly, intentionally, willfully and wantonly searched Mr. Johnigan's home and seized Mr. Johnigan without authority of law.

7.3 Defendants Christopher Bohatch and Scotland Hammond decision to search Mr. Johnigan's residence and seize Mr. Johnigan and his residence were motivated in part or in total by the race of Mr. Johnigan.

7.4 As a proximate result of the violation of the Plaintiff's constitutional rights, by defendants Christopher Bohatch and Scotland Hammond, Mr. Johnigan suffered and will continue to suffer damages in the amount to be proven at trial.

7.5 The conduct of defendants Christopher Bohatch and Scotland Hammond, and also subjects them to punitive damages in an amount to be proven at trial.

VIII. FOURTH CAUSE OF ACTION
UNLAWFULL INTERROGATION

(42 U.S.C. § 1983 *et seq.*)

(CHRISTOPHER BOHATCH)

8.1 Plaintiff hereby restates and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

8.2 Defendants Christopher Bohatch recklessly, knowingly, intentionally, willfully and wantonly interrogated Mr. Johnigan after the unlawfull siezure of Mr. Johnigan in violation of Mr. Johnigan's rights under the Fifth Amedment to the United States Consitution.

8.3 As a proximate result of the violation of the Plaintiff's constitutional rights, by defendants Christopher Bohatch and Scotland Hammond, Mr. Johnigan suffered and will continue to suffer damages in the amount to be proven at trial.

8.4 The conduct of defendants Christopher Bohatch and Scotland Hammond, and also subjects them to punitive damages in an amount to be proven at trial.

IX. FIFTH CAUSE OF ACTION
MONELL CLAIM BASED ON RATIFICATION
(42 U.S.C. § 1983 *et seq.*)
(CITY OF VANCOUVER) (CHIEF MCELVAIN)

9.1 Plaintiffs hereby restates and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

9.2 James McElvain is the chief and final policy making officer and decision maker for the Vancouver Police Department.

9.3 Chief McElvain's actions and failures to act deprived the plaintiff of his particular rights under the laws of the United States and the United States Constitution.

9.4 Chief McElvain had final policymaking authority from the City of Vancouver for the Vancouver Police Department concerning the acts or failures to act of officers Christopher Bohatch and Scotland Hammond.

9.5 Chief McElvain was aware of the fact that Officers Christopher Bohatch and Scotland Hammond entered the home of Mr. Johnigan without a warrant or an exception to the warrant requirement.

9.6 Chief McElvain ratified the act of Officers Christopher Bohatch and Scotland Hammond, that is, Chief McElvain knew of and specifically made a deliberate choice to take no

1 action to have the officers retrained or disciplined after having received a complaint that they had
 2 searched Mr. Johnigan's home and seized him therein unreasonably and without a warrant.

3 9.7 As a direct result of Chief McElvain's conduct, the Vancouver Police Department
 4 and the City of Vancouver have violated Mr. Johnigan's constitutional rights causing Plaintiff to
 5 suffer damages that will be made more certain at trial.

6 9.8 As a proximate result of the violation of the Plaintiff's constitutional rights, by
 7 defendants City of Vancouver, Mr. Johnigan suffered and will continue to suffer damages in the
 8 amount to be proven at trial.

9 9.9 The conduct of the City of Vancouver above also subjects them to punitive damages
 10 in an amount to be proven at trial.

11 **X. SIXTH CAUSE OF ACTION**
 12 **OUTRAGE**
 13 **(STATE LAW)**
 14 **(CHRISTOPHER BOHATCH) (SCOTLAND HAMMOND)**

15 10.1 Plaintiffs hereby restates and incorporates by reference all paragraphs of this
 16 Complaint as if fully set forth herein.

17 10.2 Defendants recklessly and unlawfully entered the home of Mr. Johnigan wherein
 18 they searched his home and seized him which is extreme and outrageous.

19 10.3 Defendants intended to cause, or were in reckless disregard of the probability that
 20 their conduct would cause, severe emotional distress to Mr. Johnigan.

21 10.4 Said actions were undertaken with malice, willfulness, and with reckless
 22 indifference to the rights of the Mr. Johnigan.

23 10.5 Defendant's actions resulted in severe emotional distress and anguish to Mr.
 24 Johnigan.

10.6 The acts and/or omissions of including the policies, customs, and/or actual practices described above, were the legal and proximate cause of Mr. Johnigan's wrongful arrest and prosecution, causing Mr. Johnigan injuries as described herein.

10.7 As a result of Defendants' violations, Mr. Johnigan suffered and will continue to suffer damages to be proven at trial.

XI. SEVENTH CAUSE OF ACTION
NUISANCE
(RCW 7.48.120)
(STATE LAW)
(CHRISTOPHER BOHATCH) (SCOTLAND HAMMOND)

11.1 Plaintiffs hereby restates and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

11.2 Defendants intentionally and unlawfully invaded the property of Mr. Johnigan, thereby affecting his interest in exclusive possession of his property.

11.3 There was a reasonable foreseeability that the unlawful invasion by Defendants would disturb the Mr. Johnigan's possessory interest.

11.4 The invasion by Defendant annoyed, injured, or endangered the comfort, repose, health, or safety of Mr. Johnigan, or offended decency, or rendered Mr. Johnigan insecure in life, or in the use of his property.

11.5 As a result of Defendants' violations, Mr. Johnigan suffered and will continue to suffer damages to be proven at trial.

XII. DAMAGES AND PRAYER FOR RELIEF

12.1 As a proximate result of Defendants' conduct, Mr. Johnigan suffered damages in the form of economic losses, non-economic loss, personal injuries, emotional distress, embarrassment, loss of reputation, loss of enjoyment of life and humiliation, in an amount

1 presently unknown and to be made more certain at the time of trial, as well as incurring attorney
2 fees and other losses.

3 12.2 Plaintiff is entitled to an award of attorney fees and costs under 42 U.S.C. § 1988

4 12.3 WHEREFORE, Mr. Johnigan prays for damages as previously mentioned, together
5 with other equitable relief, costs of this action and reasonable attorneys' fees, prejudgment interest
6 on any lost wages or liquidated sums, punitive damages and any other relief as this Court deems
7 equitable and just.

8 **XIII. JURY DEMAND**

9 13.1 Mr. Johnigan is entitled to and hereby demands trial by a jury.

10 DATED Tuesday, June 23, 2020.

11 ANGUS LEE LAW FIRM, PLLC

12 S// D. Angus Lee

13 D. Angus Lee, WSBA# 36473

14 Attorneys for Jabo Johnigan

15 Angus Lee Law Firm, PLLC

16 9105A NE HWY 99 Suite 200

17 Vancouver, WA 98665

18 Phone: 360.635.6464 Fax: 888.509.8268

19 E-mail: Angus@AngusLeeLaw.com

CERTIFICATE OF SERVICE

I certify that on this date I transmitted a copy of the document to which this certificate is affixed to the individual(s) identified below in the manner indicated below:

- ☐ U.S. Mail-postage prepaid
- ☐ Overnight Courier
- ☐ Email
- ☐ Electronically filed with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the identified individual.

DATED this Tuesday, June 23, 2020 at Vancouver, Washington.

D. Angus Lee

Jeffrey W. Holmes

FILED
OCT 23 2019
DISTRICT COURT
CLARK COUNTY, WASH.

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

CITY OF VANCOUVER,

Plaintiff,

v.

JABO ODOMS JOHNIGAN,

Defendant.

No. 9Z0242613

MOTION AND ORDER FOR DISMISSAL
WITHOUT PREJUDICE

COMES NOW, Kenneth Wallace, Assistant City Attorney, and moves the above Court to dismiss without prejudice the above-entitled case for the reason that: cannot prove beyond a reasonable doubt.

DATED this 23 day of October, 2019.


Kenneth Wallace, WSBA #51452
Assistant City Attorney

ORDER

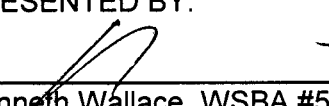
THIS MATTER having come before the Court upon the Motion and the Court now being fully advised in the premises and on consideration whereof finds said Motion should be sustained;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that said case shall be dismissed without prejudice.

DATED this 23rd day of Oct., 2019.


JUDGE OF THE DISTRICT COURT

PRESENTED BY:


Kenneth Wallace, WSBA #51452
Assistant City Attorney

MOTION AND ORDER FOR DISMISSAL
WITHOUT PREJUDICE - 1

SJ

Domestic Violence Prosecution Center
PO BOX 1995
Vancouver WA 98668-1995
(360) 487-8530
(360) 487-8531 (FAX)

EX. A



----- Original message -----

From: jabojohnigan93

<jabojohnigan93@yahoo.com>

Date: 1/2/20 10:53 AM (GMT-08:00)

To: James.McElvain@cityofvancouver.us

Subject: Seeking Justice

Dear Chief:

My name Jabo Johnigan and I write to you to let you know that my rights were violated by two of your officers. On [March 13, 2019](#), two of your officers (Christopher Bohatch and Scotland Hammond) came into my home at night without a warrant. They came into my bed room and interrogated me. They did not have a warrant to come into my home and they did not have permission. Their actions were illegal and very hurtful.

As both officers are white, and I am black, I can't help but suspect that they felt they could get away with this because of my race. They should be held accountable for their actions.

As the Chief of police I write to you directly as you are the one who can fix this.

Sincerely,

Jabo Johnigan

EX. B